(17,526.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 141

FRED A. BAKER, PLAINTIFF IN ERROR,

vs.

STEPHEN BALDWIN.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MICHIGAN.

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1 STATE OF MICHIGAN:

Supreme Court.

STEPHEN BALDWIN, Complainant and Appellee,
vs.
FRED A. BAKER, Defendant and Appellant.

Appeal from Oakland.

In chancery.

Bill of Complaint.

STATE OF MICHIGAN:

To the circuit court for the county of Oakland, in chancery:

Your orator, Stephen Baldwin, a resident of the city of Detroit, in the county of Wayne and State of Michigan, files this, his bill of complaint, against Fred A. Baker, also a resident of said city of Detroit, and, humbly complaining, your orator shows unto the court:

1. Your orator is the owner in fee-simple of a parcel or tract of land situate in the township of Royal Oak, in the said county of Oakland, known and described as follows: Commencing on the S. E. corner of section 17, T. one N. R., 11 E.; thence S. 89° 52′, west along the south line of said section 17, twenty (20) chains and 35⅞ links to the southwest corner of the east half of southeast quarter of said section 17; thence N. 0°, 13′, east along the west line of said E. ½ of S. E. ¼, ten (10) chains, 53⅞ links; thence N. 89°, 28′ east two (2) chains; thence N. 88°, 46′, east eighteen (18) chains, 33 links to the east line of said section 17; thence south along said east line, ten (10) chains, 90½ links to the place of beginning, containing 21.764 acres of land.

2 2. Your orator purchased said parcel of land from John B. Soults, and at the time it was conveyed to your orator by said Soults it was subject to a mortgage executed on the 12th day of January, 1894, by said John B. Soults, who was a single man, to Reuben H. Van Winkle, to secure the payment of three hundred and thirty dollars ($330) three years from the date of said mortgage, with interest thereon at the rate of 7 per cent. per annum, payable semi-annually, according to a certain promissory note given by said John B. Soults on the said 12th day of January, 1894, to said Reuben H. Van Winkle. Said mortgage was duly executed by said John B. Soults, and acknowledged on said 12th day of January, 1894, before a notary public for the said county of Wayne, and a certificate of such acknowledgment was duly endorsed on said mortgage. Said mortgage was recorded in the register of deeds office for the county of Oakland, on the 15th day of January, 1894, in Liber 127 of Mortgages on pages 252 and 253.

3. On the 20th day of January, 1897, the said Reuben H. Van Winkle duly assigned said mortgage to Fred A. Baker, the defend-

ant herein. Said assignment was acknowledged by said Reuben H. Van Winkle before a notary public on said day, and a certificate of such acknowledgment was duly endorsed upon said assignment. Said assignment was recorded in the office of the register of deeds for the county of Oakland on the 21st day of January, 1897, in Liber 137 of Assignments of Mortgages on page 295.

4. On the 13th day of December, 1897, the amount due upon said mortgage was the principal sum of three hundred and thirty ($330) dollars, with interest thereon at seven per cent. per annum from the 12th day of July, 1896. The aggregate amount due upon said mortgage upon the said 13th day of December, 1897, was the sum of three hundred and sixty-four ($364.00) dollars.

5. On the 13th day of December, 1897, your orator tendered to the said Fred A. Baker, personally, in the city of Detroit, in said county of Wayne, the said sum of three hundred and sixty-four ($364.00) dollars, the said tender being made in three hundred and sixty-four silver coins, of the United States, of the denomination of one dollar, and all of which silver coins bore date after the year 1878; and that said Fred A. Baker, in refusing said tender, stated that he did so because, in his judgment, the legal-tender provisions of the act of Congress of February 28th, 1878, commonly known as the Bland-Allison act, are unconstitutional and void.

6. Your orator requested said defendant to execute a discharge of said mortgage, and your orator offered to pay the expense of preparing and executing the same, but said Baker refused to execute the same for the reason above stated.

7. Said parcel of land is of great value, to wit: of the value
3 of three thousand ($3,000.00) dollars, and said mortgage and the record thereof, as aforesaid, constitute an undischarged lien and encumbrance thereon, and your orator is without remedy in the premises except in a court of equity.

8. More than seven days have elapsed since said tender was made and said defendant still refuses and neglects to discharge said mortgage either by an entry on the margin of the record thereof in the register's office, or by executing a certificate of discharge or release thereof as required by section 5704 of Howell's Annotated Statutes of Michigan, and your orator is entitled to the relief provided by said section.

Prayer for Relief.

Your orator prays that the said Fred A. Baker, the defendant herein, may be required to answer this bill fully and particularly, paragraph by paragraph, (an answer under oath being hereby expressly waived,) and that the tender so made by your orator may be declared and decreed to be good and sufficient in law, and that said defendant may be required to execute and deliver to your orator a discharge or release of such mortgage, and that your orator may have such other and further relief as law and equity may require.

Prayer for Process.

Your orator prays that process for the appearance of said Fred A. Baker, the defendant herein, may be issued according to the rules and practice of this court.

STEPHEN BALDWIN.

TIMOTHY E. TARSNEY,
Solicitor for Complainant.

STATE OF MICHIGAN, } ss:
County of Wayne, }

On this 27th day of January, 1898, before me, a notary public in and for said county, personally appeared Stephen Baldwin, and made oath that he had heard read the above and foregoing bill of complaint subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except the matters and things therein stated to be on information and belief, and as to those matters he believes the same to be true.

GEORGE ENGEL,
Notary Public, Wayne County, Mich.

4 *Answer.*

STATE OF MICHIGAN:

In the Circuit Court for the County of Oakland. In Chancery.

STEPHEN BALDWIN, Complainant, }
vs.
FRED A. BAKER, Defendant. }

The answer of the above-named defendant to the bill of complaint of the above-named complainant.

In answer to said bill, this defendant admits that all the facts set forth and alleged in said bill and in each paragraph thereof are true. Further answering said bill, this defendant, (making such reference to constitutional and statutory provisions as may be necessary to render this answer more intelligible than it otherwise would be), respectfully shows unto the court:

1. This defendant submits, that under the power "to coin money, regulate the value thereof, and of foreign coins, and fix the standard of weights and measures," the Congress of the United States has no more authority or power, as far as pre-existing contracts for the payment of money are concerned, to diminish or increase the number of grains of pure gold or pure silver in the dollar in which a contract has been lawfully expressed, than it has as to pre-existing contracts to change the number of grains in an ounce, or the number of ounces in a pound, or the number of inches in a foot, or feet in a yard, or to change any other standard of weights or measures. Nor has Congress, where a contract at the time it was made was

only lawfully payable in dollars containing a certain number of grains of one of the precious metals, any power to change the dollar of the contract, to a dollar of the metal of less or greater value than the former.

This defendant submits that the expression of opinion to the contrary of the foregoing view of the Constitution made by the Supreme Court of the United States, in the opinion delivered by Mr. Justice Gray, in Juillard *vs.* Greenman, 110 U. S., 449, was a mere *obiter dictum*, as the only question involved in that case, was whether, under the power of Congress "to borrow money," United States Treasury notes could, in a time of peace, be made a legal tender; that said *obiter dictum* was combated and satisfactorily answered in the dissenting opinion of Mr. Justice Field; that it is not an authoritative exposition and interpretation by the court of the Constitution; that at the time the Constitution of the United States was proposed and adopted, it was understood and believed that no such power to impair the obligations of contracts was vested by the Constitution in Congress; and that this understanding and belief has ever since remained, and still is, the true construction of the Constitution.

2. This defendant has been informed, and believes, and he charges the fact to be, that the statement in the opinion of the court in Juillard *vs.* Greenman, that Congress did, by the act of June 28, 1834, reduce the number of grains in the gold dollar, and "thereby enable debtors to discharge their debts by the payment of coins of less value," is not true in point of fact. Under the act of April 2, 1792, which remained unamended in this respect until the act of June 28, 1834, the gold dollar consisted of 24.75 grains of pure gold, and the silver dollar consisted of 371.25 grains of pure silver, the ratio being one to fifteen. During all that period, as this defendant has been informed and believes and charges the fact to be, the commercial value of the bullion in the gold dollar was greater than that of the silver in the silver dollar, yet all contracts for the payment of money were payable and solvable, at the option of the debtor, in the least valuable of these dollars, and for that reason all contracts in force on the 28th day of June, 1834, were legally payable in such silver dollars. The pure gold in the gold dollar was reduced by the act of June 28, 1834, to 23.2 grains, and the gold coins of full weight previously coined were made a legal tender for $1.0665. But this defendant submits that it was not the intention and purpose of Congress to reduce the value of the gold dollar below that of the silver dollar; and he has been informed and believes and he charges the fact to be that the reduction made in the amount of gold in the gold dollar did not within the most credible information then within the reach of Congress reduce the value of the gold dollar below that of the silver dollar. The defendant submits that if said act made any reduction in the value of the gold dollar below the value of the silver dollar, such reduction was so small and insignificant as to be unworthy of notice, and it is plain that Congress did not intend to make any reduction whatever. The mint ratio established by the act of June 28, 1834, was one to

16.002, and the defendant has been informed and believes and he charges the fact to be that during the year 1833 the average commercial ratio was one to 15.93, which shows that to have been exactly in accord with the average commercial value of the silver dollar during the preceding year the gold in the gold dollar should have been reduced by the act of June 28, 1834, to 23.3 instead of 23.2 grains, or a difference of one-tenth of one grain of gold only.

This defendant submits that the said act of Congress, as a practical construction of the Constitution of the United States, as relied upon in said opinion, is without force, except as it shows a contrary intention on the part of Congress from that stated by the court, in this, that Congress evidently intended not to impair any contract. The act of June 18, 1837, increased the amount of gold in the gold dollar to 23.22 grains, (making the mint ratio one to 15.988), where it has since remained.

6 3. This defendant has been informed and believes and charges the fact to be that during the years 1851, 1852, 1853 the commercial ratio between gold and silver was as follows: 1851, 1 to 15.46; 1852, 1 to 15.59; and 1853, 1 to 15.33; that for the purpose of more effectively providing the people with small change Congress passed the act of February 21, 1853, reducing the amount of pure silver in silver coins of the denominations of half dollars, quarter dollars, dimes and half dimes to 345.6 grains for each dollar of such coins, that is, to a ratio of one to 14.88, but Congress limited the legal-tender quality of such subsidiary coinage to payments not exceeding five dollars. This limitation was increased by the act of June 9, 1879, to ten dollars, but the same act provided for the redemption, in lawful money, of the subsidiary coins in sums of twenty dollars or any multiple thereof.

By the act of Congress of February 12, 1873, the subsidiary silver coinage with its legal-tender quality was continued, but the standard silver dollar was omitted from the coinage and legal-tender laws, and it was provided that the standard gold dollar "shall be the unit of value."

The act of Congress commonly known as the Bland-Allison act was passed over the veto of President Hayes, February 28th, 1878, and the purchasing clauses of said act were in force until August 13, 1890, when they were supplanted by the purchasing clauses of the act of Congress of July 14, 1890, commonly known as the Sherman silver law. The purchasing clauses of the latter act remained in force until repealed by the act of November 1, 1893.

4. This defendant has been informed and believes and charges the fact to be that the total amount of silver bullion purchased by the Government under the Bland-Allison act was 291,272,018 fine ounces of the mint or coinage value of $1.2929 an ounce, or a total of $376,575,492. This silver bullion, however, was purchased at its market price from month to month, and the aggregate cost thereof was only $308,279,260, showing a net profit or seigniorage realized by the Government of $68,296,232.

The total amount of silver purchased under the Sherman silver law was 168,674,682 fine ounces of the mint or coinage value of

$218,079,496. The actual cost, however, was only $155,931,002, showing a net profit or seigniorage of $62,148,494. The net profit or seigniorage under both of these acts amounts to $130,444,726.

All of the silver bullion purchased under the Bland-Allison act has been coined into silver dollars, and the Government has realized the whole of the profit or seigniorage thereon.

7 Down to November 30th, 1897, from the bullion purchased under the Sherman silver law, there has been coined $70,968,527, on which the profit or seigniorage realized by the Government was $17,704,678. Of the amount so coined there was in the Treasury of the United States, Nov. 30th, 1897, $5,126,127, which amount, together with the uncoined bullion in the Treasury, at its cost value of $102,667,153, constitute a fund for the redemption of the $107,793,280 of United States Treasury notes of 1890, issued under the Sherman silver law, and which were outstanding Nov. 30th, 1897. All the other of the silver dollars coined from the bullion purchased under the Sherman silver law have in part been used in the redemption of United States Treasury notes of 1890, previously issued under said act, and those not so used, have passed into the general assets of the Treasury.

Nov. 30th, 1897, there were 454,183,894 silver dollars in the Treasury and in circulation, divided as follows:

Silver dollars held in the Treasury for redemption of outstanding silver certificates (exclusive of those in Treasury) issued under Bland-Allison act.....	$372,932,061
Silver dollars held in fund in Treasury for the redemption of U. S. Treasury notes of 1890.....	5,126,127
Silver dollars in net assets of Treasury.....	14,844,945
Silver dollars in circulation.....	61,280,761
	$454,183,894

5. This defendant has been informed and believes and charges the fact to be, that at the time the Bland-Allison act was passed over the veto of the President the commercial price of silver bullion in New York, measured by the United States gold dollar, was only $1.19 per fine ounce, making the bullion in the United States silver dollar worth only 92 cents; that the average gold price of silver bullion, and the average value of the silver in the silver dollar during 1878 and subsequent years has been as follows:

Year.	Silver per oz.	Bullion value of silver dollar.
1878	1.152	.891
1879	1.133	.868
1880	1.145	.886
1881	1.138	.881
1882	1.136	.878
1883	1.110	.858
1884	1.113	.861
1885	1.0645	.823
1886	0.9946	.769
1887	0.97823	.758
1888	0.93987	.727
1889	0.93576	.724
1890	1.04633	.810
1891	0.98782	.764
1892	0.87106	.674
1893	0.78031	.604
1894	0.63479	.491
1895	0.65406	.505
1896	0.67	.518
1897	0.61	.471

NOTE.—The figures covering 1897 include only the first ten months.

8 6. This defendant has been informed and believes, and he charges the fact to be, that on the 13th day of December, 1897, when the said Stephen Baldwin, the complainant herein, tendered to this defendant the said three hundred and sixty-four silver dollars in payment of said mortgage, as alleged in the fifth paragraph of said bill, the gold price of silver in New York was 58¼ cents, or hundredths parts, of a United States gold dollar, per fine ounce; and the value of the silver bullion in said three hundred and sixty-four silver coins so tendered was only one hundred and sixty-three and $\frac{80}{100}$ dollars.

There are 434,212,822 silver dollars in circulation either in coin or in silver certificates representing the coin, but the real value thereof in gold is only $195,395,769.90.

7. This defendant shows that the silver dollars coined by the United States under the Bland-Allison act and the Sherman silver law were not coined or issued as promises to pay on the part of the Government, and there is no act of Congress authorizing the Secretary of the Treasury to treat them as promises to pay or authorizing him to redeem them either in gold or in United States legal-tender notes.

This defendant submits that said silver dollars are nothing more or less than a debased coinage, such as was arbitrarily issued in England by Henry VIII and Edward VI, but which was withdrawn and recoined by Elizabeth, and which was subsequently attempted by Charles I, but which, upon the advice and unanswerable reason-

ing of Sir Robert Cotton and others before the King in council, was promptly recalled before any public injury had been done.

The defendant submits that at the time the Constitution of the United States was adopted, it had been recognized and conceded in England for more than a century and a half, that a debasement of the coinage was not a just, proper or legitimate exercise of the prerogatives of the Crown, or the powers of Parliament, and this defendant therefore, insists that the Constitution of the United States in vesting in Congress certain enumerated legislative powers, and in requiring the powers so granted to be exercised subject to the great fundamental requirement of English constitutional liberty, that no person shall be deprived of his life, liberty or property without due process of law, prohibited Congress from imposing and inflicting upon the people any such debased coinage as that provided by the Bland-Allison act and the Sherman silver law.

9 While conceding to Congress power to change the standard of value and of payments, as far as future contracts are concerned, defendant denies that Congress has power, where one of the precious metals has fallen in value as compared with the other, to purchase such depreciated and depreciating metal at its market value, and to coin it and issue it as of full value, and retain the seigniorage as so much net profit or gain for the pockets or coffers of the Government, substantially if not precisely, as the despotic kings and princes of a former age were wont to do, when they were guilty of a debasement of the coinage.

8. This defendant submits, that inasmuch as the Bland-Allison act did not open the mints to the unlimited coinage of silver on private account on an equality with gold, as had been the continuous policy of the Government from 1792 to 1873, Congress thereby treated silver as a depreciated, discredited, or debased metal, and announced its purpose to continue to so treat it, and that upon the facts set forth in this answer in regard to the depreciation in the gold price of silver at the time said act was passed, the provisions making silver dollars coined from silver purchased under said act a legal tender without limit as to amount, were and are unconstitutional and void. Under the Constitution and the valid acts of Congress, silver dollars are only a legal tender for payments, not exceeding ten dollars.

9. This defendant has been informed and believes and he charges the fact to be, that at the time the act of January 14, 1875, for the resumption of specie payments was passed, the general stock of United States legal-tender notes issued under the acts of February 25, 1862, July 2, 1862, and March 3, 1863, amounted to $382,000,000; that before any bonds were issued or money was borrowed under the resumption act, the amount of said notes was reduced to $346,681,016. The defendant therefore submits that the aggregate amount of bonds that could be lawfully issued under said act was limited to that amount. He further shows, on like information and belief, that preparatory to the resumption of specie payments on January 1, 1879, bonds were issued under the resumption act to the amount of $95,500,000, and as that was all that it was necessary to

issue at that time, he submits that the power to issue bonds under that act became and was exhausted, and from thenceforward said act was obsolete. He further shows, on like information and belief, that without any authority from Congress, except that conferred by the resumption act, there *has* been issued since the year 1893, by the Secretary of the Treasury, bonds of the United States, to the amount of $262,315,400, on which gold coin was realized to the amount of $293,454,286.74, showing that more bonds have been now issued under the resumption act, and much more gold coin has been realized thereon than the total amount of United States legal-tender notes to be redeemed.

10 Upon these facts defendant submits that there is now no act of Congress under which the Secretary of the Treasury, or any other department of the Government can borrow gold coin for the purpose of redeeming either United States legal-tender notes or standard silver dollars, and that the Secretary of the Treasury has no legal way of procuring gold for the redemption of such silver dollars, even if he had authority to treat them as promises to pay.

10. This defendant submits that the tender so made to him by the complainant was not sufficient in law to require him to discharge said mortgage, and he prays the benefit of a demurrer to said bill on that ground.

All of which matters and things this defendant is ready to aver, maintain and prove at such time and in such manner as the court may direct, and he prays that said bill of complaint may be dismissed with costs.

FRED. A BAKER, *Defendant.*

ALBERT B. HALL,
Solicitor for Defendant,
69 *Buhl Block, Detroit, Mich.*

STATE OF MICHIGAN, } ss:
County of Wayne, }

On this, the 4th day of February, 1898, before me, a notary public, in and for said county, personally appeared Fred A. Baker, and made oath that he had heard read the above and foregoing answer subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except the matters and things therein stated to be on information and belief, and as to those matters he believes the same to be true.

GEO. J. BAKER,
Notary Public, Wayne County, Mich.

Replication.

The complainant filed a general replication to the answer, and gave notice that he claimed the right to an examination of the witnesses in open court as in a suit at law.

11 *Decree.*

At a session of the circuit court for the county of Oakland, in chancery, held on the 5th day of December, 1898, at the court-house in the city of Pontiac.

Present: Honorable George W. Smith, circuit judge.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant.

This cause having been heretofore submitted to the court upon pleadings and an examination of witnesses in open court, and having been argued by counsel, it is ordered, adjudged, and decreed that the legal-tender clause of the act of Congress of February 28th, 1878, commonly known as the Bland-Allison act, is constitutional and valid, and that the tender made by the complainant in this cause to the defendant herein in silver dollars, coined under the said act, was a full and lawful tender of the amount due upon the mortgage described in the bill of complaint in this cause, and it is therefore further ordered, adjudged, and decreed that said mortgage be, and the same is, hereby canceled and discharged and declared not to be a lien upon the land described therein.

On motion of Timothy E. Tarsney, solicitor for the complainant, it is further ordered, adjudged, and decreed that the defendant herein be, and he is hereby, required to execute and deliver to the complainant a discharge of said mortgage, and that in case he fails to execute such a discharge within thirty days from the date of this decree, that a certified copy of this decree may be recorded in the register's office, of the county of Oakland, in lieu of such discharge. The mortgage so discharged was executed by John B. Soults, on the 12th day of January, 1894, to Reuben H. Van Winkle, to secure the payment of three hundred and thirty dollars, and was recorded in the register's office, in Oakland county, on the 15th day of January, 1894, in Liber 127 of Mortgages, on pp. 252 and 253.

It is further ordered, adjudged, and decreed that the complainant recover of the defendant his costs of suit to be taxed, and that he have an execution therefor.

GEO. W. SMITH,
Circuit Judge.

Countersigned:
FREDERICK HARRIS, *Register.*

"The testimony being closed, the case was argued by counsel and submitted to the court.

The above and foregoing is a statement of the proceedings taken on the final hearing of this cause, and of the testimony taken in open court on said hearing, and the same is hereby settled as a case under the statute.

Settled and signed this 6th day of December, 1898.

GEO. W. SMITH,
Circuit Judge."

STATE OF MICHIGAN:

Circuit Court for the County of Oakland. In Chancery.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant.

At a session of said court, held on the 26th day of November, 1898, the above-entitled cause came on to be heard on pleadings and proof to be taken in open court.

Timothy E. Tarsney appeared for the complainant and Albert B. Hall appeared for the defendant.

Counsel for complainant submitted his case upon the allegations in the bill and the admissions in the answer.

Fred A. Baker, the defendant, was then sworn in his own behalf, and testified that he refused the tender of silver dollars made to him by the complainant, as stated in the bill and answer, because he desired to test the constitutionality of the legal-tender clause of the act of Congress of February 28th, 1878, commonly known as the Bland-Allison act. The witness further testified that the facts upon which he claims said act to be invalid are, that at the time the act was passed the bullion value of the silver in the silver dollar, when measured by the gold dollar, was only ninety-two cents, as was distinctly stated in the veto message of President Hayes, and that the bullion value of the silver dollar has ever since then been continuously below one hundred cents in gold, and for some time past has been less than fifty cents in gold. The witness further testified that the facts and figures stated in the answer as to the relative commercial value of gold and silver at different dates and periods was obtained by him from the reports of the Secretary of the Treasury and the Director of the Mint of the United States; that the commercial ratio of silver to gold from 1687 to 1897 is shown by a table published in the reports of the Treasury Department, a copy of which is hereto annexed as Exhibit A; that the facts and figures stated in the answer relative to the purchase of silver by the Government since the act of 1878 was passed, and the coinage thereof into silver dollars, and the amount of seigniorage or profit realized by the Government thereon, were also obtained by him from the reports of the Treasury Department of the Government, and he also obtained from the same source the fact that at the time the acts of June 28th, 1834, and June 18th, 1837, were passed the bullion value of the silver in the silver dollar at the ratio of fifteen to one was less than the bullion value of the gold in the gold dollar; that witness also obtained from the same source the facts set forth in the ninth paragraph of the answer relative to the amount of bonds issued under the resumption act of 1875, and the amount of the greenbacks redeemed and the amount yet outstanding.

13 EXHIBIT A.

Commercial Ratio of Silver to Gold Each Year Since 1687.

(NOTE.—From 1687 to 1832 the ratios are taken from Dr. A. Soetbeer, from 1833 to 1878 from Pixley and Abell's tables, and from 1878 to 1894 from daily cablegrams from London to the Bureau of the Mint.)

Year.	Ratio.	Year.	Ratio.	Year.	Ratio.	Year.	Ratio.	Year.	Ratio.	Year.	Ratio.
1687	14.94	1723	15.20	1759	14.15	1795	15.55	1831	15.72	1867	15.57
1688	14.94	1724	15.11	1760	14.14	1796	15.65	1832	15.73	1868	15.59
1689	15.02	1725	15.11	1761	14.54	1797	15.41	1833	15.93	1869	15.60
1690	15.02	1726	15.15	1762	15.27	1798	15.59	1834	15.75	1870	15.57
1691	14.98	1727	15.24	1763	14.99	1799	15.74	1835	15.80	1871	15.57
1692	14.92	1728	15.11	1764	14.70	1800	15.68	1836	15.72	1872	15.63
1693	14.83	1729	14.92	1765	14.83	1801	15.46	1837	15.83	1873	15.92
1694	14.87	1730	14.81	1766	14.80	1802	15.26	1838	15.85	1874	16.17
1695	15.02	1731	14.94	1767	14.85	1803	15.41	1839	15.62	1875	16.59
1696	15.00	1732	15.09	1768	14.80	1804	15.41	1840	15.62	1876	17.88
1697	15.20	1733	15.18	1769	14.72	1805	15.79	1841	15.70	1877	17.22
1698	15.07	1734	15.39	1770	14.62	1806	15.52	1842	15.87	1878	17.94
1699	14.94	1735	15.41	1771	14.66	1807	15.43	1843	15.93	1879	18.40
1700	14.81	1736	15.18	1772	14.52	1808	16.08	1844	15.85	1880	18.05
1701	15.07	1737	15.02	1773	14.62	1809	15.96	1845	15.92	1881	18.16
1702	15.52	1738	14.91	1774	14.62	1810	15.77	1846	15.90	1882	18.19
1703	15.17	1739	14.91	1775	14.72	1811	15.53	1847	15.80	1883	18.64
1704	15.22	1740	14.94	1776	14.55	1812	16.11	1848	15.85	1884	18.57
1705	15.11	1741	14.92	1777	14.54	1813	16.25	1849	15.78	1885	19.41
1706	15.27	1742	14.85	1778	14.68	1814	15.04	1850	15.70	1886	20.78
1707	15.44	1743	14.85	1779	14.80	1815	15.26	1851	15.46	1887	21.13
1708	15.41	1744	14.87	1780	14.72	1816	15.28	1852	15.59	1888	21.99
1709	15.31	1745	14.98	1781	14.78	1817	15.11	1853	15.33	1889	22.10
1710	15.22	1746	15.13	1782	14.42	1818	15.35	1854	15.33	1890	19.76
1711	15.29	1747	15.26	1783	14.48	1819	15.33	1855	15.38	1891	20.92
1712	15.31	1748	15.11	1784	14.70	1820	15.62	1856	15.38	1892	23.72
1713	15.24	1749	14.80	1785	14.92	1821	15.95	1857	15.27	1893	26.49
1714	15.13	1750	14.55	1786	14.96	1822	15.80	1858	15.38	1894	32.56
1715	15.11	1751	14.39	1787	14.92	1823	15.84	1859	15.19	1895	31.60
1716	15.09	1752	14.54	1788	14.65	1824	15.82	1860	15.29	1896	30.66
1717	15.13	1753	14.54	1789	14.75	1825	15.70	1861	15.50	1897	34.22
1718	15.11	1754	14.48	1790	15.04	1826	15.76	1862	15.35		
1719	15.09	1755	14.68	1791	15.05	1827	15.74	1863	15.37		
1720	15.04	1756	14.94	1792	15.17	1828	15.78	1864	15.37		
1721	15.05	1757	14.87	1793	15.00	1829	15.78	1865	15.44		
1722	15.17	1758	14.85	1794	15.37	1830	15.82	1866	15.43		

Appeal.

The defendant claimed and perfected an appeal from said decree to the supreme court of the State.

14 *Claim of Appeal.*

STATE OF MICHIGAN:

The Circuit Court for the County of Oakland. In Chancery.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant.

The said defendant hereby claims the benefit of an appeal to the supreme court from the final decree rendered in said cause by said court on the 5th day of December, A. D. 1898.

A. B. HALL,
Solicitor for Defendant.

Dec. 9, 1898.
To the register of said court.

STATE OF MICHIGAN:

The Circuit Court for the County of Oakland. In Chancery.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant.

SIR: Take notice that the defendant in the above-entitled cause has appealed to the supreme court from the decree made therein on the 5th day of December, 1898, by the circuit court for the county of Oakland, in chancery, and that a bond for costs and damages upon said appeal in the penalty of two hundred dollars, with George J. Baker and Albert B. Hall as sureties, has been filed, and that an application will be made on Monday, the 19th day of December, 1898, to the Honorable George W. Smith, circuit judge, at his office, in the city of Pontiac, for an approval of such bond and of the sureties therein.

Yours, etc.,

A. B. HALL,
Solicitor for Defendant.

Dec. 9, 1898.
15 To T. E. Tarsney, solicitor for complainant.

STATE OF MICHIGAN, } *ss:*
County of Wayne,

George J. Baker, being duly sworn, deposes and says that he served a copy of the above notice of appeal upon T. E. Tarsney, solicitor for the complainant, by personally delivering the same to him in person, at his office in the city of Detroit, on the 10th day of December, 1898.

GEO. J. BAKER.

Subscribed and sworn to before me this 10th day of December, 1898.

ISAAC N. PAYNE,
Notary Public, Wayne County, Mich.

A bond on appeal was duly approved and filed.

Certificate.

The Circuit Court for the County of Oakland. In Chancery.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant.

I, the undersigned, register of said court, do hereby certify that at the instance of Fred A. Baker I have this day attached together for the purpose of enrollment the bill of complaint, subpœna, pleadings, proofs, a fair engrossed copy of the final decree signed by the Honorable George W. Smith, circuit judge, and countersigned by the register of this court, together with the other papers filed in this cause, and annexed thereto this certificate, according to the statute in such case made and provided.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 15th day of Dec'r, A. D. 1898.

[SEAL.] FREDERICK HARRIS, *Register.*

16 At a session of the supreme court of the State of Michigan held at the supreme court room, in the capitol, in the city of Lansing, on the ninth day of May, in the year of our Lord one thousand eight hundred and ninety-nine.

Present: The Honorable Claudius B. Grant, chief justice; Robert M. Montgomery, Frank A. Hooker, Joseph B. Moore, Charles D. Long, associate justices.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant and Appellant. } No. 17344.

This cause coming on to be heard is duly submitted upon briefs.

17 *Opinion.*

Supreme Court of the State of Michigan.

STEPHEN BALDWIN
vs.
FRED A. BAKER.

Allegations of bill of complaint.

Complainant purchased the land described in the bill of complaint subject to a mortgage owned by defendant. Dec. 13th, 1897, there were due upon said mortgage $364. Complainant tend-

ered this amount to said defendant in 364 silver coins of the United States of the denomination of one dollar, all bearing date after the year 1878. Baker refused the tender, basing his refusal upon the unconstitutionality of the act of Congress of Feb. 28th, 1878, commonly known as the Bland-Allison act. Complainant at the same time requested defendant to execute a discharge of the mortgage, which defendant refused. The bill prays that such tender may be declared good and sufficient in law, and that defendant be required to execute a delivery and discharge of the mortgage.

The answer admits all the facts set up in the bill, but assails the act of Congress in question as unconstitutional.

The sole question presented is whether the act in question making the silver dollar of 412.5 grains troy of standard silver a full legal tender for all debts and dues, public and private, is constitutional. The learned counsel for the defendant has filed an elaborate brief upon the question, discussing the history of coinage in this country and the various acts of Congress upon the subject. Did we not regard the question as foreclosed by the decisions of the Supreme Court of the United States we should be compelled
18 to enter upon a studious and laborious examination of the subject. We are, however, of the opinion that that court in the so-called legal-tender cases has placed the question beyond discussion in other courts. Knox *vs.* Lee, 12 Wallace, 457; Juilliard *vs.* Greenman, 110 U. S., 444.

Counsel argues that what was said in those cases affecting the question he now raises was *obiter dicta*, and therefore not binding. We are of the opinion that the court in those cases fully covered the question. The language is clear and unmistakable. It appears conceded that it covers the question unless it is dictum. We must regard such holding as the deliberate and authoritative enunciation by the court of the law. We therefore decline to enter upon a discussion of the question, because, in our opinion, it is *stare decisis*.

See Knox *vs.* Lee, 12 Wallace, 551–3. This case was subsequently approved by the nearly unanimous opinion of the same court in Juilliard *vs.* Greenman, 110 U. S., 438, only one justice dissenting.

Decree affirmed with costs.

C. B. GRANT.
R. M. MONTGOMERY.
J. B. MOORE.
CHAS. D. LONG.
FRANK A. HOOKER.

(Endorsed:) Filed Sept. 19, 1899. Chas. C. Hopkins, clerk supreme court.

19 At a session of the supreme court of the State of Michigan, held at the supreme court room, in the capitol, in the city of Lansing, on the nineteenth day of September, in the year of our Lord one thousand eight hundred and ninety-nine.

Present: The Honorable Claudius B. Grant, chief justice; Robert

M. Montgomery, Frank A. Hooker, Joseph B. Moore, Charles D. Long, associate justices.

STEPHEN BALDWIN, Complainant,
vs.
FRED A. BAKER, Defendant and Appellant. } # 17344.

This cause having been brought to this court by appeal from the circuit court for the county of Oakland, in chancery, and having been argued by counsel, and due deliberation had thereon, it is now ordered, adjudged, and decreed by the court that the decree of the circuit court for the county of Oakland, in chancery, be, and the same is hereby, in all things affirmed; and it is further ordered, adjudged, and decreed that the complainant do recover of and from the defendant his costs, to be taxed.

20 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the supreme court of the State of Michigan, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before you or some of you, between Stephen Baldwin, complainant and appellee, and Fred A. Baker, defendant and appellant, a manifest error hath happened, to the great damage of the said Fred A. Baker, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within 20 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 20th day of September, in the year of our Lord one thousand eight hundred and ninety-nine.

{ Seal of the Circuit Court, Eastern District of Michigan. }

WALTER S. HARSHA,
Clerk of the Circuit Court of the United States for the Eastern District of Michigan.

Allowed by—
C. B. GRANT,
Chief Justice of the Supreme Court of the United States.

[Endorsed:] 17344. Filed Sept. 22, 1899. Chas. C. Hopkins, clerk supreme court.

21 UNITED STATES OF AMERICA, *ss:*

To Stephen Baldwin, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 20 days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of Michigan, wherein Fred A. Baker is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Claudius B. Grant, chief justice of the supreme court of Michigan, this 20th day of September, in the year of our Lord one thousand eight hundred and ninety-nine.

[Seal of the Supreme Court of Michigan, Lansing.]

C. B. GRANT,
Chief Justice of the Supreme Court of Michigan.

22 STATE OF MICHIGAN, } *ss:*
County of Wayne, }

On this 26th day of September, in the year of our Lord one thousand eight hundred and ninety-nine, personally appeared Fred A. Baker before me, the subscriber, a notary public in and for said county, and makes oath that he delivered a true copy of the within citation to Stephen Baldwin on the 26th day of Sept., 1899, and on the same day he delivered a like copy to Timothy E. Tarsney, solicitor for said Baldwin in the court below.

FRED A. BAKER.

Sworn to and subscribed the 26th day of September, A. D. 1899.

ROBT YOUNG,
Notary Public, Wayne Co., Mich.

[Endorsed:] 17344. Filed Sept. 27, 1899. Chas. C. Hopkins, clerk.

23 *Bond.*

Know all men by these presents that we, Fred A Baker, as principal, and George Gartner and Edward A. Stricker, all of Detroit, Mich., are held and firmly bound unto Stephen Baldwin in the full and just sum of five hundred dollars, to be paid to the said Stephen Baldwin, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this twentieth day of Septem-

ber, in the year of our Lord one thousand eight hundred and ninety-nine.

Whereas lately, at a session of the supreme court of the State of Michigan, in a suit pending in said court between Stephen Baldwin, complainant and appellee, and Fred A. Baker, defendant and appellant, a judgment was rendered against the said Fred A. Baker, and the said Fred A. Baker having obtained a writ of error and filed the same in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Stephen Baldwin, citing and admonishing him to be and appear at a Supreme Court of the United States, at Washington, within twenty days from the date thereof:

Now, the condition of the above obligation is such that if the said Fred A. Baker shall prosecute said writ of error to effect and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in force and virtue.

FRED A. BAKER. [SEAL.]
GEO. GARTNER. [SEAL.]
EDWARD A. STRICKER. [SEAL.]

Sealed and delivered in the presence of—

——— ———.

Approved by—
C. B. GRANT,
Chief Justice of the Supreme Court of the State of Michigan.

(Endorsed:) I consent to the approval of the within bond. T. E. Tarsney, sol'r for defendant in error. Filed Sept. 22, 1899. Chas. C. Hopkins, clerk supreme court.

24 Supreme Court of the State of Michigan.

STEPHEN BALDWIN, Complainant and Defendant in Error,
vs.
FRED A. BAKER, Defendant and Plaintiff in Error.

STATE OF MICHIGAN, *ss:*

In the Supreme Court.

I, Charles C. Hopkins, clerk of the supreme court of the State of Michigan, do hereby certify that the annexed and foregoing is a true and correct copy of the record and of all proceedings had and entered in the above-entitled cause by said court, including the written decisions and reasons therefor, signed by the judges of said court and filed in my office, as appears of record and on file in said cause; that I have compared the same with the originals and it is a true transcript therefrom and of the whole thereof; that attached thereto are the writ of error, with allowance endorsed thereon, the

citation with proof of service endorsed thereon, and a copy of the bond to the adverse party filed with said writ of error.

Seal of the Supreme Court of Michigan, Lansing.

In testimony whereof I have hereunto set my hand and affixed the seal of said supreme court, at the city of Lansing, this thirtieth day of September, in the year of our Lord one thousand eight hundred and ninety-nine.

CHAS. C. HOPKINS,
Clerk Supreme Court of the State of Michigan.

Endorsed on cover: File No., 17,526. Michigan supreme court. Term No., 141. Fred A. Baker, plaintiff in error, *vs.* Stephen Baldwin. Filed October 2d, 1899.

UNITED STATES OF AMERICA:

Supreme Court of the United States.

FRED A. BAKER, Plaintiff in Error,
vs.
STEPHEN BALDWIN, Defendant in Error.
} No. 141, Oct. Term, 1900.

It is hereby stipulated and agreed that the return and printed record in this case is defective, in that the "case," on page 11 of the printed record, should conclude with the following:

"The testimony being closed, the case was argued by counsel and submitted to the court.

The above and foregoing is a statement of the proceedings taken on the final hearing of this cause, and of the testimony taken in open court on said hearing, and the same is hereby settled as a case under the statute.

Settled and signed this 6th day of December, 1898.

GEO. W. SMITH,
Circuit Judge."

And it — further agreed that return and printed record may be amended by the addition, at the bottom of said page 11, of the above and foregoing.

Detroit, Aug. 15th, 1900.

A. B. HALL,
Attorney for Plaintiff in Error.
TIMOTHY E. TARSNEY,
Attorney for Defendant in Error.

I hereby certify that the original record on file in my office contains the above matter, and it should have been included in the return to the Supreme Court of the United States.

Lansing, August 15th, 1900.

[Seal of the Supreme Court of Michigan, Lansing.]

CHAS. C. HOPKINS,
Clerk of Supreme Court of Michigan.

[Endorsed:] File No., 17,526. Supreme Court U. S., October term, 1900. Term No., 141. Fred A. Baker, pl'ff in error, *vs.* Stephen Baldwin. Stipulation for addition to record. Filed Aug. 21, 1900.